

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
DANVILLE DIVISION

EAST TENNESSEE NATURAL GAS CO.,)
)
Plaintiff,) Case No. 4:02-cv-00146
)
v.)
)
)
)
3.04 ACRES IN PATRICK COUNTY,)
VIRGINIA, JERRY S. THOMAS, BETTY)
B. THOMAS, et. al.)
)
Defendants.

ORDER

By: Jackson L. Kiser
United States District Court

Before me are four *Motions in Limine* filed by the Plaintiff and six *Motions in Limine* filed by the Defendants. In addition, there is a *Motion for Use of 4 Wheel Drive Vehicles for Property Visit* filed by the Plaintiff. A hearing on these *Motions* was held by conference call before this Court on Thursday, January 11, 2007 at 10:00AM in Danville, VA.

(1) Plaintiff's *Motion for Use of 4 Wheel Drive Vehicles for Property Visit* [172] is hereby **GRANTED** on the conditions set forth on the record of the conference call.

(2) Plaintiff's *Motion in Limine to Exclude Reference to Any Liens Filed Against Defendants' Property and Potential for Another Pipeline* [127] is hereby **GRANTED** for the reasons stated on the record.

(3) Plaintiff's *Motion in Limine to Exclude Reference to Wytheville Accident and Fire* [131] is hereby **GRANTED** for the reasons stated on the record.

(4) Plaintiff's *Motion in Limine to Exclude the Testimony of Dennis Gruelle or, in the Alternative, to Exclude (1) Dennis Gruelle's Comparable Sale #4 and (2) All References to Sales*

Not Included as Comparable Sales [137] is hereby **DENIED** as moot as it was revealed during the conference call that Dennis Gruelle will not be called as an expert witness.

(5) Plaintiff's *Motion in Limine Excluding Any Testimony Regarding Environmental Permits Related to the Patriot Project or This Parcel* [162] is hereby **GRANTED** with respect to mentioning ETNG's obtaining appropriate environmental permits. Defendant's Expert Witness Thomas Stokes may testify that areas along the pipeline identified by the Plaintiff's Expert Witness Nick Brash for potential road crossings are wetlands.

(6) Defendants' *Motion in Limine to Exclude Testimony of James Johnston on Houses He Has Seen Next to Gas Pipeline Easements in Marion, Virginia* [139] is hereby **DENIED** for the reasons stated on the record.

(7) Defendant's *Motion in Limine to Exclude Testimony on Any Complaints Filed Against Dennis W. Gruelle* [143] is hereby **DENIED** as moot as it was revealed during the conference call that Dennis Gruelle will not be called as an expert witness.

(8) Defendants' *Motion in Limine to Exclude Photographs of Pipeline Easement Areas on Unrelated Properties Based on Federal Rules of Evidence 401, 403 and 802* [145] is hereby **DENIED** for the reasons stated on the record.

(9) Defendants' *Motion in Limine to Exclude Improper Opinion Testimony from Witnesses who did not provide a Rule 26 Expert Report* [147] is hereby **DENIED** for the reasons stated on the record.

(10) Defendants' *Motion in Limine to Defendant's Objection to Plaintiff's Late Disclosure of Appraisal of Warren Klutz* [156] is hereby **GRANTED** for the reasons stated on the record.

(11) Defendant's *Motion in Limine to Exclude Testimony or Other Evidence on the Amount of the Sales Offer of the Current Owner of the Thomas Property* [173] is hereby **GRANTED** for the reasons stated on the record.

The Clerk is directed to send certified copies of this *Order* to all counsel of record.

Entered this 11th day of January, 2007.

s/Jackson L. Kiser
Senior United States District Judge